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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,382	04/06/2005	Declan Patrick Kelly	NL 021037	4934

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BRIARCLIFF MANOR, NY 10510

EXAMINER

MCLEOD, MARSHALL M

ART UNIT

PAPER NUMBER

4152

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,382

Applicant(s)

KELLY ET AL.

Examiner

MARSHALL MCLEOD

Art Unit

4152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/ISD)
Paper No(s)/Mail Date 21 March 2007.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-5 are pending in this application.

Priority

2. Examiner acknowledges applicant's international priority based on the international filing date of 18 September 2003.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. With respect to claim 5, the claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. It is clearly not a series of steps or acts to be a process nor is it a combination of chemical compounds to be a composition of matter. As such, it fails to fall within a statutory category. It is, at best, software *per se*, which is not one of the statutory subject matters.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamkin et al. (Pub. No US 2002/0078144 A1), hereinafter Lamkin.**

6. With respect to claim 1, Lamkin discloses a method of enhancing multimedia data (24) contained on an information carrier (23) (Page 5, [0103], lines 1-3), said information carrier also containing additional data (25) (Page 5, [0099], lines 1-4), said method comprising the following steps performed from the information carrier (23):

- a. reading a user file (22) containing user data defining user's previous actions (Page 11, [0206], lines 1-6), in a storage unit (21) of a recording and/or reproducing device (20) (Page 12, [0207], lines 1-10; i.e. Storage unit = player hardware),
- b. providing the additional data (25) as a function of the user data (Page 5, [0095], lines 5-15; i.e. ...a new text display giving information), and
- c. updating the user data to reflect the user's latest action (Page 5, [0095], lines 5-15; i.e. when the user interacts with the content...effects will be reflected in the media sub window).

7. With respect to claim 2, Lamkin discloses a method of enhancing multimedia data as claimed in claim 1, wherein the recording and/or reproducing device (20) is connected to a remote unit (10) via a network (15), said remote unit (10) containing additional data (11), said method comprising the following steps performed from the remote unit (10) (Page 10, [0182], lines 1-11):

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- a. reading the user file (22) containing the user data in the storage unit (21) (Page 12, [0207], lines 1-10),
 - b. providing the remote unit (Page 5, [0095], lines 5-15; i.e. clicking on hypertext link indicates a remote unit) additional data (11) as a function of the user data (Page 5, [0095], lines 5-15; i.e. ...a new text display giving information), and
 - c. updating the user data to reflect the user's latest actions (Page 5, [0095], lines 5-15; i.e. when the user interacts with the content...effects will be reflected in the media sub window).
8. With respect to claim 3, Lamkin discloses an information carrier (23) comprising multimedia data (24) and additional data (25) for enhancing the multimedia data (24), said information carrier (23) (Page 5, [0103], lines 1-3) further comprising:
 - a. means for reading a user file (22) containing user data defining user's previous actions (Page 11, [0206], lines 1-6), in a storage unit (21) of a recording and/or reproducing device (20) (Page 12, [0207], lines 1-10; i.e. Storage unit = player hardware),
 - b. means for providing the additional data (25) as a function of the user's previous actions (Page 5, [0095], lines 5-15; i.e. ...a new text display giving information), and
 - c. means for updating the user data in the user file as a function of the user's latest actions (Page 5, [0095], lines 5-15; i.e. when the user interacts with the content...effects will be reflected in the media sub window).
9. With respect to claim 4, Lamkin discloses a recording and/or reproducing device (10) (Abstract) adapted to read an information carrier (23) containing multimedia data (24) and

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additional data (25) for enhancing the multimedia data (24) (Page 5, [0103], lines 1-3), said device comprising:

- a. means for reading a user file (22) containing user data defining user's previous actions (Page 11, [0206], lines 1-6), in a storage unit (21) of the recording and/or reproducing device (20) (Page 12, [0207], lines 1-10; i.e. Storage unit = player hardware),
- b. means for providing the additional data (25) as a function of the user's previous actions (Page 5, [0095], lines 5-15; i.e. additional data = ...a new text display giving information), and
- c. means for updating the user data in the user file as a function of the user's latest actions (Page 5, [0095], lines 5-15; i.e. when the user interacts with the content...effects will be reflected in the media sub window).

10. With respect to claim 4, Lamkin discloses a computer program comprising program instructions for implementing the method of enhancing multimedia data as claimed in claim 1, when said program is executed by a processor (Page 4, [0072], lines 1-7).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Mock, Wayne E. (Pub. No US 2004/0136698 A1) teaches a method for pruning and grooming DVD content into a format compatible to be viewed over a network.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Friday 7:30 a.m-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on (571) 272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.M. 1/17/2008

/Nabil El-Hady/
Supervisory Patent Examiner, Art Unit 4152